

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>LATTIME CONSTRUCTION AND HOME BUILDING, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Case No. 1:05-CV-1062-MEF-CSC</b>
<b>v.</b>	)	
	)	
<b>THE BERRY COMPANY, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANT L. M. BERRY AND COMPANY'S  
MOTION FOR LEAVE TO AMEND ANSWER**

Defendant L. M. Berry and Company ("Berry") moves this Court, pursuant to Rule 15 of the Federal Rules of Civil Procedure, for an order granting this defendant leave to amend its answer in this civil action. In support of this motion, this defendant shows unto the Court the following grounds:

1. The Uniform Scheduling Order entered in this action on February 16, 2006 provides, in part, that any motion to amend the pleadings shall be filed on or before May 2, 2006. This motion for leave is filed in compliance with the Uniform Scheduling Order.

2. Except for the voluntary disclosures that the parties have exchanged, no discovery has been initiated by the plaintiff or the defendants. The defendants intend to initiate their discovery promptly after the disposition of the present motion. For this reason, the granting of this motion should not cause any undue prejudice or inconvenience to the plaintiff.

3. This action arises out of a contract for the publication of directory advertising and listings for the plaintiff in the 2003 edition of the Dothan, Alabama CenturyTel telephone directory, which was published by Berry for defendant CenturyTel Service Group, LLC. In its

answer, Berry did not assert a counterclaim against the plaintiff for unpaid directory advertising charges. This motion for leave is filed in order to allow Berry an opportunity to assert a counterclaim for directory advertising charges that Berry will allege are due to be paid under the contract. Except for the assertion of this counterclaim, Berry does not seek leave to amend its answer in this action.

4. Attachment "A" to this motion for leave is the Amended Answer and Counterclaim that Berry will file in this action if the Court grants this motion.

WHEREFORE, defendant L. M. Berry and Company moves this Court to enter an order granting leave for this defendant to amend its answer in this action to assert a counterclaim against the plaintiff.



Craig A. Alexander (ASB-3390-N68C)  
Counsel for Defendant L. M. Berry and  
Company

OF COUNSEL:

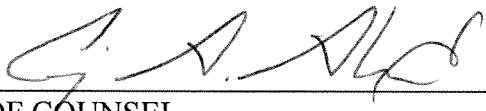
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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing motion for leave on counsel of record for the plaintiff by placing same in the United States Mail, properly addressed and first class postage prepaid:

John E. Byrd  
P.O. Box 536  
Dothan, AL 36302

On this 27<sup>th</sup> day of April, 2006.

  
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OF COUNSEL